

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Courtland Woltz And Rose Woltz

Case No. 07-81360

Chapter 13

Social Security No. xxx-xx-8265 and xxx-xx-1923
Address: 3140 Cunningham Rd., Semora, NC 27343-

Debtors

MOTION TO MODIFY PLAN

NOW COME the Debtors, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on September 20, 2007, with the Chapter 13 plan being subsequently confirmed on December 20, 2007.
2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:

From: \$808.00 per month.

To: \$808.00 per month through June 2011, followed thereafter by \$661.00 per month, starting in July 2011.
3. In addition, the Debtors request a "waiver" to move their Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving these waivers the Debtors agree that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtors' case may be dismissed without further hearing by the Court. The Debtors agree that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.
4. The changed circumstances that justify the proposed modification are as follows:
 - a. The Debtors were in an automobile accident in January 2001, resulting in substantial expense for repair of the 2003 Dodge Neon.
 - b. The roof from the Debtors porch was destroyed and needed replacing.
 - c. The Debtors recently had to replace their hot water heater.

- d. The Debtors had to replace their refrigerator.
 - e. The Male Debtor has been unemployed since January 2011.
 - f. The Male Debtor suffers from chronic arthritic gout.
- 5. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.
 - 6. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
 - 7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
 - a. Change in length of plan.
 - b. Change in monthly disbursement to Daimler Chrysler from \$100.74 a month to \$39.00 a month.

Appended Application for an Additional Attorney Fee

- 8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify, \$32.50 for the cost of postage in serving this Motion.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: June 15, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward C. Boltz
Edward C. Boltz
North Carolina State Bar No.: 23003
6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Courtland Woltz And Rose Woltz

Case No. 07-81360

Chapter 13

Social Security No. xxx-xx-8265 and xxx-xx-1923
Address: 3140 Cunningham Rd., Semora, NC 27343-

Debtors

CERTIFICATE OF SERVICE

I, Dawn De Frange, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on June 15, 2011, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
Michael West
U.S. Bankruptcy Administrator

Courtland Woltz And Rose Woltz
3140 Cunningham Rd.,
Semora, NC 27343-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Dawn De Frange
Dawn De Frange

In re **Courtland Dorain Woltz**
Rose Florine WoltzCase No. **07-81360**

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S): Son	AGE(S): 20
Employment:	DEBTOR	SPOUSE
Occupation	Unemployed	Dietary Aide
Name of Employer		Roxboro Nursing Center
How long employed	1/2011	33 yrs
Address of Employer		Ridge Road Roxboro, NC 27573

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ <u>0.00</u>	\$ <u>2,154.58</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

3. SUBTOTAL

\$ <u>0.00</u>	\$ <u>2,154.58</u>
----------------	--------------------

4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
b. Insurance
c. Union dues
d. Other (Specify): _____

\$ <u>0.00</u>	\$ <u>377.26</u>
\$ <u>0.00</u>	\$ <u>209.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <u>0.00</u>	\$ <u>586.26</u>
----------------	------------------

6. TOTAL NET MONTHLY TAKE HOME PAY

\$ <u>0.00</u>	\$ <u>1,568.32</u>
----------------	--------------------

7. Regular income from operation of business or profession or farm (Attach detailed statement)
8. Income from real property
9. Interest and dividends
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above
11. Social security or government assistance
(Specify): **Unemployment**

\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>624.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

12. Pension or retirement income

13. Other monthly income

(Specify): _____

\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <u>624.00</u>	\$ <u>0.00</u>
------------------	----------------

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <u>624.00</u>	\$ <u>1,568.32</u>
------------------	--------------------

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ <u>2,192.32</u>

(Report also on Summary of Schedules and, if applicable, on
Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

None Anticipated

In re **Courtland Dorain Woltz**
Rose Florine WoltzCase No. **07-81360**

Debtor(s)

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) -
AMENDED**

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)		\$	<u>0.00</u>
a. Are real estate taxes included?	Yes <u> </u> No <u>X</u>		
b. Is property insurance included?	Yes <u> </u> No <u>X</u>		
2. Utilities:		\$	<u>181.00</u>
a. Electricity and heating fuel		\$	<u>0.00</u>
b. Water and sewer		\$	<u>0.00</u>
c. Telephone		\$	<u>216.00</u>
d. Other See Detailed Expense Attachment		\$	<u>0.00</u>
3. Home maintenance (repairs and upkeep)		\$	<u>300.00</u>
4. Food		\$	<u>20.00</u>
5. Clothing		\$	<u>0.00</u>
6. Laundry and dry cleaning		\$	<u>40.00</u>
7. Medical and dental expenses		\$	<u>250.00</u>
8. Transportation (not including car payments)		\$	<u>0.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.		\$	<u>20.00</u>
10. Charitable contributions		\$	<u>37.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)		\$	<u>0.00</u>
a. Homeowner's or renter's		\$	<u>0.00</u>
b. Life		\$	<u>0.00</u>
c. Health		\$	<u>241.66</u>
d. Auto		\$	<u>0.00</u>
e. Other		\$	<u>21.66</u>
12. Taxes (not deducted from wages or included in home mortgage payments) (Specify) Real Property Taxes		\$	<u>0.00</u>
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		\$	<u>0.00</u>
a. Auto		\$	<u>0.00</u>
b. Other		\$	<u>0.00</u>
c. Other		\$	<u>0.00</u>
14. Alimony, maintenance, and support paid to others		\$	<u>0.00</u>
15. Payments for support of additional dependents not living at your home		\$	<u>0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)		\$	<u>0.00</u>
17. Other See Detailed Expense Attachment		\$	<u>865.00</u>
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)		\$	<u>2,192.32</u>
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: None Anticipated			
20. STATEMENT OF MONTHLY NET INCOME			
a. Average monthly income from Line 15 of Schedule I		\$	<u>2,192.32</u>
b. Average monthly expenses from Line 18 above		\$	<u>2,192.32</u>
c. Monthly net income (a. minus b.)		\$	<u>0.00</u>

In re **Courtland Dorain Woltz**
Rose Florine WoltzCase No. **07-81360**

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED
Detailed Expense Attachment**Other Utility Expenditures:**

Cablevision	\$	106.00
Cellular Phone	\$	110.00
Total Other Utility Expenditures	\$	216.00

Other Expenditures:

Personal Grooming	\$	46.00
Emergencies/Miscellaneous	\$	158.00
Chapter 13 Plan Payment	\$	661.00
Total Other Expenditures	\$	865.00

CH. 13 PLAN - DEBTS SHEET (MIDDLE DISTRICT - STEP PLAN)

Date: 6/10/11

LastName-SS#: Woltz-8265 MTM

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

Retain	Creditor Name	Sch D #	Description of Collateral

SURRENDER COLLATERAL

Creditor Name	Description of Collateral

ARREARAGE CLAIMS ON RETAINED COLLATERAL

Retain	Creditor Name	Sch D #	Arrearage Amount
	Beneficial		\$1,787

REJECTED EXECUTORY CONTRACTS/LEASES

Creditor Name	Description of Collateral

LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY

Retain	Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	Beneficial		\$508	n/a	n/a	\$508	
				n/a	n/a		
				n/a	n/a		

STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)

Retain	Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
				7.00			
				7.00			
				7.00			
				7.00			

STD - SECURED DEBTS & 910 CLAIMS (Pay 100% a)

Retain	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	Chrysler Services		\$849	9.50	\$8	\$39	03 Dodge
				5.25			
				7.00			
				7.00			
				7.00			

ATTORNEY FEES (Unpaid Part)

Law Offices of John T. Orcutt, P.C.	Amount
-------------------------------------	--------

\$250

SECURED TAXES

IRS Tax Liens	Secured Amount
---------------	----------------

Real Property Taxes on Retained Realty	
--	--

UNSECURED PRIORITY DEBTS

IRS Taxes	Amount
-----------	--------

State Taxes	
-------------	--

Personal Property Taxes	
-------------------------	--

Alimony or Child Support Arrearage	
------------------------------------	--

COSIGN PROTECT (Pay 100%)

Int. %	Payoff Amount
--------	---------------

All *Co-Sign Protect Debts (See***)	
-------------------------------------	--

GENERAL NON-PRIORITY UNSECURED

Amount to Pay *

DMI = None(\$0)

PROPOSED CHAPTER 13 PLAN

\$ 661 /month for 18 months, then

\$ N/A /month for N/A months.**

Definitions

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

* = Minimum of DMI x ACP, minus all co-sign protect debt.

** = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

*** Co-sign protect on all debts so designated on filed schedules D, E and F

Final_MD_Step (rev. 11/6/07) © Copyright by John T. Orcutt (Page 4 of 4)

Other Miscellaneous Provisions